

REMARKS

Applicants respectfully request reconsideration and withdrawal of the restriction requirement.

According to the Examiner, Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because they lack the same or corresponding special technical features for the reason that claim 1 is either obvious over or anticipated by Reetz et al., *Angew. Chem. Int. Ed.*, 39: 3889-90 (2000). Applicants respectfully disagree. There is no teaching or suggestion in the Reetz article of "at least two structurally different monophosphorus ligands bonded to a transition metal" as required by instant claim 1. In all cases, a single monophosphorus ligand is bonded to a transition metal, including the discussion in the middle of the left-hand column, wherein a mixture of diastereomeric ligands 8a and 8b is employed. Such diastereomers have the *same* chemical structure for the purposes of the present invention. Consequently, there is no support for the proposition that the subject matter of claim 1 is anticipated by or obvious in view of the Reetz article and, therefore, no support for the further proposition that the instant claims lack the same or corresponding special technical feature. Indeed, Applicants point out that lack of unity was not found during the international phase.

With respect to the species, the Examiner says there is nothing showing the different catalytic species as being equivalent. Certainly, Applicants have presented the Markush groups here and urged equivalency for the purposes of the present invention. The burden is on the Examiner to show the grouping of species to be an improper Markush grouping in some way. The Examiner has not discharged this burden and, therefore, has not established a lack of unity as to the species.

According to MPEP § 1850, unity of invention exists where:

- "(A) All alternatives have a common property or activity; and
- (B)(1) A common structure is present, i.e., a significant structural element is shared by all of the elements."

In the present case, all alternatives are disclosed as being catalysts. Therefore, criterion (A) is satisfied.

Moreover, all of the catalysts comprise a plurality of monophosphorus ligands bonded to a transition metal, wherein at least one of the monophosphorus ligands is chiral. Therefore, all of the alternatives share a significant structural element and criterion (B) also is satisfied.

In short, contrary to the Examiner's apparent position, the species constitute a proper Markush group and, therefore, unity of invention exists.

Finally, Applicants point out that the assignee of the instant application is a small entity and can ill afford having to prosecute several patent applications to gain examination of the full scope of the original claims. For this reason, and for the other reasons advanced above, Applicants respectfully request that the Examiner reconsider and withdraw the restriction requirement altogether. An early notice that the restriction requirement has been reconsidered and withdrawn is earnestly solicited.

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